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## SENATE BILL No. 398

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-47; IC 35-50-2-13.

**Synopsis:** Assault weapons. Makes the sale, transfer, or possession of an assault weapon by an unauthorized person a Class C felony. Makes the operation of a loaded assault weapon a Class B felony.

**Effective:** July 1, 2005.

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**Howard**

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January 11, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 398

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-47-2-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except an  
3 individual acting within a parent-minor child or guardian-minor  
4 protected person relationship or any other individual who is also acting  
5 in compliance with IC 35-47-10, a person may not sell, give, or in any  
6 other manner transfer the ownership or possession of a handgun or  
7 assault weapon (as defined in ~~IC 35-50-2-11~~) **IC 35-47-5.5-2**) to any  
8 person under eighteen (18) years of age.  
9 (b) It is unlawful for a person to sell, give, or in any manner transfer  
10 the ownership or possession of a handgun to another person who the  
11 person has reasonable cause to believe:  
12 (1) has been:  
13 (A) convicted of a felony; or  
14 (B) adjudicated a delinquent child for an act that would be a  
15 felony if committed by an adult, if the person seeking to obtain  
16 ownership or possession of the handgun is less than  
17 twenty-three (23) years of age;



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- (2) is a drug abuser;
- (3) is an alcohol abuser; or
- (4) is mentally incompetent.

SECTION 2. IC 35-47-5.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 5.5. Assault Weapons**

**Sec. 1. (a) This chapter does not apply to:**

- (1) the commissioner of the department of correction or a person the commissioner authorizes in writing to carry an assault weapon;
- (2) a judicial officer;
- (3) a law enforcement officer;
- (4) a member of the armed forces of the United States or of the National Guard or organized reserves, while the member is on duty;
- (5) a regularly enrolled member of an organization authorized to purchase or receive an assault weapon from the United States government or the government of Indiana who is at or is going to or from:

(A) the place of assembly of the assault weapon; or

(B) target practice; or

- (6) an employee of the United States authorized to carry an assault weapon;

who is acting within the scope of the person's duties.

**Sec. 2. (a) As used in this chapter, "assault weapon" means the following:**

- (1) A semiautomatic center fire rifle that accepts a detachable magazine with a capacity of at least twenty (20) rounds.
- (2) A semiautomatic shotgun with a magazine capacity of more than six (6) rounds.
- (3) A semiautomatic handgun that is:
  - (A) a modification of a rifle described in subdivision (1) or a modification of an automatic firearm; or
  - (B) originally designed to accept a detachable magazine with a capacity of more than twenty (20) rounds.
- (4) A firearm that may be restored to an operable assault weapon described in subdivision (1), (2), or (3).
- (5) A part or combination of parts designed or intended to convert a firearm into an assault weapon described in subdivision (1), (2), or (3).
- (6) A combination of parts from which an assault weapon

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described in subdivision (1), (2), or (3) may be readily assembled if the same person possesses or controls the parts.

(b) The term does not include the following:

(1) A firearm that uses twenty-two hundredths (.22) caliber rimfire ammunition with a detachable magazine that has a capacity of thirty (30) rounds or less.

(2) An assault weapon that has been modified to make it permanently:

(A) inoperable; or

(B) a device no longer defined as an assault weapon.

Sec. 3. As used in this chapter, "automatic firearm" means a firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.

Sec. 4. A person who knowingly or intentionally:

(1) sells;

(2) offers or displays for sale;

(3) gives;

(4) lends;

(5) transfers ownership of;

(6) acquires; or

(7) possesses;

an assault weapon commits a Class C felony.

Sec. 5. A person who knowingly or intentionally operates a loaded assault weapon commits a Class B felony.

Sec. 6. An assault weapon that is the subject of a violation of section 4 or 5 of this chapter shall be seized and disposed of in accordance with IC 35-47-3.

SECTION 3. IC 35-50-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense of dealing in a controlled substance under IC 35-48-4-1 through IC 35-48-4-4 sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person knowingly or intentionally:

(1) used a firearm; or

(2) possessed: ~~or~~

(A) a handgun in violation of IC 35-47-2-1;

(B) a sawed-off shotgun in violation of IC 35-47-5-4.1; ~~or~~

(C) a machine gun in violation of IC 35-47-5-8; ~~or~~

(D) an assault weapon in violation of IC 35-47-5.5-4;

while committing the offense.

(b) If after a sentencing hearing a court finds that a person

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committed an offense as described in subsection (a), the court may sentence the person to an additional fixed term of imprisonment of not more than five (5) years, except as follows:

(1) If the firearm is a sawed-off shotgun, the court may sentence the person to an additional fixed term of imprisonment of not more than ten (10) years.

(2) If the firearm is:

(A) a machine gun or **is an assault weapon; or**

(B) equipped with a firearm silencer or firearm muffler;

the court may sentence the person to an additional fixed term of imprisonment of not more than twenty (20) years. The additional sentence under this subdivision is in addition to any additional sentence imposed under section 11 of this chapter for use of a firearm in the commission of an offense.

SECTION 4. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 35-47-5.5-4, as added by this act, a person who possesses an assault weapon does not violate IC 35-47-5.5-4, as added by this act, if the person does either of the following before October 1, 2005:**

**(1) Removes the firearm from Indiana.**

**(2) Modifies the firearm to make it permanently:**

**(A) inoperable; or**

**(B) a device no longer defined as an assault weapon under IC 35-47-5.5-2, as added by this act.**

**(b) This SECTION expires October 2, 2005.**

SECTION 5. [EFFECTIVE JULY 1, 2005] **This act applies only to offenses committed after June 30, 2005.**

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